Steve Troxler
Commissioner

North Carolina Department of Agriculture and Consumer Services
Legal Affairs

Tina Hlabse
General Counsel

July 6, 2017

Ms. Abigail Hammond
Commission Counsel
Rules Review Commission
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Dear Abigail:

This letter is in regards to the re-adoption of rules identified as "Necessary with Substantive Public Interest" in 02 NCAC 37. The North Carolina Department of Agriculture and Consumer Services ("NCDA&CS) would like to formally request an extension of the re-adoption date for the afore-mentioned rules, specifically, 02 NCAC 37 .0201 and 02 NCAC 37 .0203 (published in 31:15 NCR 1534), from March 31, 2017 to August 31, 2017.

On December 29, 2016, NCDA&CS requested (and were ultimately granted) an extension of the re-adoption dates for other Departmental rules, 02 NCAC 59 (Soil and Water) up to August 31, 2017 and 02 NCAC 60 (Forestry) up to and including December 31, 2017. We intended, but inadvertently, excluded 02 NCAC 37 as part of that December 29, 2016 request. It was an oversight on our part and we did not realize this error until June 14, 2017 while reviewing our rules and reports that needed to be filed in June to be put on your July calendar. Our Rule-making Coordinator has been out on maternity leave since May 15, 2017. We have been trying diligently since that time (and before) to stay on top of all of our rules going through the periodic review and the re-adoption process and the myriad of accompanying deadlines. In consulting with your legal staff and asking for clarification on what needed to be filed, we were informed that NCDA&CS never received an extension for 02 NCAC 37 .0201 and 02 NCAC 37 .0203. Therefore, those rules should have been re-adopted by March 31, 2017.

Since we were working under the presumption that we had received an extension to re-adopt both rules, we thought we were being timely and pro-active in requesting that 02 NCAC 37 .0201 be put on your July docket. This rule, 02 NCAC 37.0201, was published on February 1, 2017 and the public comment period ended on April 3, 2017. The North Carolina Board of Agriculture met in Raleigh on May 24, 2017 and approved final adoption of this rule. Likewise, 02 NCAC 37 .0203 was published on February 1, 2017 and republished on June 1, 2017. The public comment period will end on July 31, 2017. It is scheduled to be heard by the North Carolina Board of Agriculture for final approval on August 23, 2017. This rule was being reviewed internally and discussed with other interested parties to gain their input into the rule and to determine if any additional changes were needed since we have recently added services to the list of services provided for a fee. That is the reason for its delayed timeline and republishing.

Again, we apologize for omitting 02 NCAC 37 from our December 29, 2016 request and consequently missing the March 31, 2017 re-adoption deadline. However, this was inadvertent and in no way intentional. Our Department strives to always be compliant with the Rules Review Commission's deadlines and be timely with any requests for extensions that may be necessary, as is evidenced by our having completed the re-adoption process for 02 NCAC 37 .0201 and in the process of completing the re-adoption for 02 NCAC 37 .0203. Therefore, we respectfully ask for a retro-active extension of time up to and including August 31, 2017 for re-adoption.

Thank you for your consideration of this request.

Sincerely,

Tina Hlabse
General Counsel